

**United States Environmental Protection Agency
Criminal Investigation Division
Investigative Activity Report**

Case Number

0506-0026

Case Title:

(b)(6), (b) Enterprises Inc.

Reporting Office:

Detroit, MI, Resident Office

Subject of Report:

Interview of (b)(6), (b) (7)(C) Deputy Director DWSD

Activity Date:

September 9, 2010

Reporting Official and Date:

(b)(6), (b) (6), (b) (7) RAC

16-SEP-2010, Signed by: (b)(6), (b)(6), RAC

Approving Official and Date:

(b)(6), (b) (7)(C), SAC

16-SEP-2010, Approved by: (b)(6), (b) (7), ASAC

SYNOPSIS

09/09/2010 - U.S. EPA CID Special Agent (b)(6), (b) (7)(C) and FBI SA (b)(6), (b) (7)(C) interviewed (b)(6), (b) (7)(C) Deputy Director, Detroit Water & Sewerage Department (DWSD) regarding the evaluation and awarding of several contracts by the department.

DETAILS

On September 9, 2010, U.S. EPA CID Special Agent (b)(6), (b) (7)(C) and FBI SA (b)(6), (b) (7)(C) interviewed (b)(6), (b) (7)(C) Deputy Director, Detroit Water & Sewerage Department (DWSD) regarding the evaluation and awarding of several contracts by the department. (b)(6), (b) (7)(C) was previously interviewed by the agents in this investigation. (b)(6), (b) (7)(C) was interviewed at the FBI office in Detroit, Michigan. (b)(6), (b) (7)(C) provided the following information:

Regarding the decision to use an average cost method for contracts CM 2014 and 2015, (b)(6), (b) (7)(C) explained that (b)(6), (b) (7)(C) felt that the department needed to throw out two of the bidders as they didn't supply adequate information in their bid and were the lowest bidders when it came to cost. EBI and Vision Consultants were the two bidders in question. (b)(6), (b) (7)(C) discussed this issue with then DWSD Director (b)(6), (b) (7)(C) who told (b)(6), (b) (7)(C) that (b)(6), (b) (7)(C) did not want to throw out the bidders but did not explain why.

(b)(6), (b) (7)(C) told (b)(6), (b) (7)(C) that (b)(6), (b) (7)(C) wanted to find another way to score the bidders and asked for (b)(6), (b) (7)(C) input. (b)(6), (b) (7)(C) told (b)(6), (b) (7)(C) he'd have to think about it. (b)(6), (b) (7)(C) told (b)(6), (b) (7)(C) that the only other method the department had used in the past was to average the rates and wages for consulting services. (b)(6), (b) (7)(C) agreed with the agents that those types of contracts are very different than CM 2014 and 2015. (b)(6), (b) (7)(C) was asked if (b)(6), (b) (7)(C) gave any explanation as to why (b)(6), (b) (7)(C) wanted to use a cost calculation which varied from the standard method. (b)(6), (b) (7)(C) replied that (b)(6), (b) (7)(C) was not going to have conversations as to why (b)(6), (b) (7)(C) was doing anything.

(b)(6), (b) (7)(C) explained how Executive Order No. 4 issued by Mayor (b)(6), (b) (7)(C) established the requirement that the local economic development (LED) portion of a bid would be given 35% of the total weight. According to (b)(6), (b) (7)(C) the Mayor's Office wanted to give the LED 50% of the weighted average but Contracts and Grants fought this. (b)(6), (b) (7)(C) told (b)(6), (b) (7)(C) that even 35% was too much to assign to the LED. (b)(6), (b) (7)(C) commented that "we knew what this process was set up for; for certain people to win, certain people to lose." When asked who it was that was to win the contracts, (b)(6), (b) (7)(C) replied (b)(6), (b) (7)(C) (b)(6), (b) (7)(C) added that all of the things the agents have seen in their investigation into the various DWSD contracts the contracts and grants employees also saw. The assigning of the LED weights was a process to set up the next process, referring to the preference to award contracts to (b)(6), (b) (7)(C) and (b)(6), (b) (7)(C) teams.

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(b)(6), received a call from (b)(6) regarding the A&H certificates. This call took place during the evaluation of contracts CM 2014 and 2015. (b)(6) assured (b)(6), that the A&H Human Rights certifications would be issued. (b)(6), pointed out that the certificates should have been included in the bid submittal for Lakeshore Engineering and since they were not issued at the time of the bid submittal they should not have been included in scoring the LED. (b)(6), asked (b)(6), (b) what (b) should do about the A&H certificates and was told by (b)(6), (b) to include them in the calculations. (b)(6), explained that if (b) didn't use the certificates then it would have altered the final scoring of the contracts.

Also during the CM 2014 and 2015 evaluation process (b)(6), was in (b)(6), (b) office when (b)(6), (b) mentioned that (b)(6), would be receiving something from (b)(6) regarding DLZ. At the time (b)(6), didn't think anything of it but when (b) saw the letter signed by (b)(6) which revoked DLZ's Detroit Headquartered Business certification. (b)(6), was surprised by this as (b) thought DLZ was a "favored" contractor and assumed they must have had a falling out with the Mayor's Administration. (b)(6), thinks that (b)(6) letter was brought to (b) office in person given the date stamp. (b)(6), explained that typically intra departmental letters are scanned and emailed with the original letter to follow.

(b)(6), knew that (b)(6), (b) was a subcontractor on CM 2105 thus (b) didn't think that the revocation of DLZ's certification was to help (b)(6), (b) but instead to help Lakeshore Engineering. (b)(6), opined that typically everything was done to help (b)(6) team get their score the highest. (b)(6), went on to say that (b) thought the "fix was in" on the CM 2014 and 2015 contracts before they were even let. It was the first time the DWSD had grouped these types of contracts, meaning construction management and the actual water main replacement work. When (b) first saw how the contracts were to be structured (b)(6), thought of (b)(6), (b) and figured these contracts were being let to get (b) work.

After the DLZ certification was revoked the bids were again tabulated but DLZ's team (Superior) was still the second highest bidder. It was at this point that (b)(6), (b) asked (b)(6), to come up with another method of scoring the bids. The use of the average cost method was not used to address the two lowest bidders which (b)(6), had expressed concerns about their ability to perform the work but was to accomplish what (b)(6), (b) asked of (b) that is to use another method of evaluating the costs. At the time (b)(6), told (b)(6), (b) that the DWSD never really did anything different on scoring the costs of bids before this. (b)(6), told the agents that there was no question that using the average cost method would change the results of the evaluation so that anyone with a higher score will be penalized. (b)(6), had a problem with using the method of scoring the costs from the beginning, explaining that it just didn't look right to anyone.

(b)(6), was asked why (b) told (b)(6) of (b)(6) staff why the contract awarding was determined by the revocation of DLZ's certification? (b)(6), replied that at the time (b) didn't go back and review the entire file and thus didn't recall that the certification issue only caused DLZ to lose one of the contracts. (b)(6), did not discuss (b)(6) investigation with (b)(6), (b) or anyone else. (b)(6), pointed out that (b)(6), (b) had left (b) position with the DWSD by the time of (b)(6) investigation.

The decision to negotiate with the top two bidders for DWSD 844A was (b)(6), (b) idea. (b)(6),

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explained to (b)(6), (b) that the city purchasing ordinance required that the DWSD negotiate with the top bidder first and could only negotiate with the second highest bidder if an agreement could not be reached with the top bidder. (b)(6), (b) told (b)(6), (b) that (b) wanted to save the time and thus was going to order the department to negotiate with two bidders. At the time (b)(6), (b) didn't think much about it but it became clear to (b) that (b)(6), (b) was trying to get work for (b)(6), (b) (b)(6), (b) commented that the answer always goes back to helping (b)(6), (b) (b)(6), (b) opined that this probably applied to the handling of the execution of the contract although (b) has not involvement in this.

(b)(6), (b) was asked about the language (b) used in a handwritten note on the recommendation to negotiate memo from the evaluation committee. (b)(6), (b) explained that (b) used the phrase "not what the board intend" after (b) discussed the evaluation committee's memo with (b)(6), (b) During this conversation (b)(6), (b) again told (b)(6), (b) that (b) wanted to negotiate with two bidders and that the Board of Water Commissioners had approved (b) request to do so. It was after this discussion that (b)(6), (b) wrote the note on the memo. (b)(6), (b) believes that the first discussion regarding negotiating with two bidders occurred after the first evaluation of the contract. At the time it was apparent to (b)(6), (b) that (b)(6), (b) did not like the results of the evaluation committee.

(b)(6), (b) agreed to provide the agents with a copy of the letter sent to the Board requesting the authority to negotiate with two bidders. (b)(6), (b) constantly told staff that (b) did not like change orders in contracts, and the letter to the bidders stating that the DWSD wanted the contractors to agree not to submit any change orders for 844A was (b)(6), (b) idea.

When (b)(6), (b) was deposed as a part of the bid protest lawsuit over the awarding of DWS 844A (b) felt pressure for things to be (b) idea because (b) was responsible for the decision to negotiate with two bidders even though (b) was told to do it. (b)(6), (b) did not talk to (b)(6), (b) about (b) testimony. (b)(6), (b) agreed that given (b) role at the time (b) was a key person for (b)(6), (b) to get to agree with (b) decisions on the evaluation and awarding of contracts.